

JAN 22 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DUSHUN A. WHITE,

Petitioner - Appellant,

v.

JOE SOLIS, Warden; et al.,

Respondents - Appellees.

No. 05-55352

D.C. No. CV-04-03487-JVS

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
James V. Selna, District Judge, Presiding

Submitted January 14, 2008^{**}

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Dushun A. White, a California state prisoner, appeals from the district court's judgment denying his 28 U.S.C. § 2254 petition. We have jurisdiction pursuant to 28 U.S.C. § 2253. We review de novo a district court's decision to

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

deny a § 2254 petition, *Sass v. Cal. Bd. of Prison Terms*, 461 F.3d 1123, 1126 (9th Cir. 2006), and we affirm.

The state's contentions that White does not have a clearly established liberty interest in parole, and that a Certificate of Appealability is required, are foreclosed. *See id.* at 1127-28.

White contends that the California Board of Prison Terms' (the "Board") 2001 decision to deem him unsuitable for parole violated his due process rights. We conclude that the Board's decision was supported by some evidence in the record. *See id.* at 1128-29. Accordingly, the state court's decision denying this claim was neither contrary to, nor based on an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States. *See* 28 U.S.C. § 2254(d); *see also Sass*, 461 F.3d at 1128-29.

AFFIRMED.